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UNIVERSAL POLYGRAM INTERNATIONAL
PUBLISHING, EMI APRIL MUSIC INC.,
STARRLITE UNIVERSAL PUBLISHING,
SUBTRACTIVE, and PILLOWFACE
PUBLISHING

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNIVERSAL POLYGRAM)	Case No. 8:16-CV-00080
INTERNATIONAL PUBLISHING,)	
EMI APRIL MUSIC INC., STARRLITE)	COMPLAINT FOR VIOLATIONS
UNIVERSAL PUBLISHING,)	OF COPYRIGHT ACT
SUBTRACTIVE, and PILLOWFACE)	
PUBLISHING,)	(17 U.S.C. §§ 101 et seq.)

Plaintiffs,

v.

MACARTHUR VENTURES, L.L.C. and
VINCENT ANTHONY CAPIZZI, II,

Defendants.

1 Plaintiffs Universal Polygram International Publishing, EMI April Music Inc.,
2 Starrlite Universal Publishing, Subtractive, and Pillowface Publishing (“Plaintiffs”),
3 by their undersigned attorneys, allege:

4 1. This is a suit for copyright infringement under Title 17 of the United
5 States Code.

6 2. This Court has jurisdiction pursuant to 28 U.S.C. § 1338(a), and venue
7 in this District is proper pursuant to 28 U.S.C. § 1400(a).

8 3. Plaintiffs allege three (3) causes of action for copyright infringement
9 based on the defendants’ public performances of Plaintiffs’ copyrighted musical
10 compositions. SCHEDULE A, annexed to the Complaint, sets forth in summary
11 form the allegations hereinafter made with respect to the Plaintiffs, their copyrighted
12 musical compositions, and Defendants’ acts of infringement.

13 **THE PARTIES**

14 4. The Plaintiffs, named in Column 2* are the owners of the copyrights in
15 the original musical compositions listed in Column 3, and are properly joined in this
16 complaint under Rule 20 of the Federal Rules of Civil Procedure.

17 5. On information and belief, Defendant Macarthur Ventures, L.L.C.
18 (“Macarthur Ventures”) is a limited liability company organized under the laws of the
19 state of California with offices at 4647 Macarthur Boulevard, Newport Beach,
20 California 92660.

21 6. At all times hereinafter mentioned, Macarthur Ventures did, and still
22 does, own, control, manage, operate, and maintain a place of business for public
23 entertainment, accommodation, amusement, and refreshment known as Ten
24 Nightclub, located at 4647 Macarthur Boulevard, Newport Beach, California 92660.

25 7. Musical compositions were and are publicly performed at Ten
26 Nightclub.

27 _____
28 * All references to “columns” herein refer to the numbered columns set forth in
SCHEDULE A.

1 8. On information and belief, defendant Vincent Anthony Capizzi, II
2 (“Capizzi” together with Macarthur Ventures, the “Defendants”) is an individual who
3 resides and/or does business in this district.

4 9. At all times hereinafter mentioned, Capizzi was, and still is, a Managing
5 Member of Macarthur Ventures.

6 10. At all times hereinafter mentioned, Capizzi was, and still is, responsible
7 for the control, management, operation and maintenance of the affairs of Macarthur
8 Ventures.

9 11. At all times hereinafter mentioned, Defendants jointly had, and still
10 have, the right and ability to supervise and control the activities that take place at Ten
11 Nightclub, including the right and ability to supervise and control the public
12 performance of musical compositions at Ten Nightclub.

13 12. Each Defendant derives a direct financial benefit from the public
14 performance of musical compositions at Ten Nightclub.

15 **FACTS SPECIFIC TO DEFENDANTS’ INFRINGEMENT OF**
16 **PLAINTIFFS’ COPYRIGHTED MUSICAL COMPOSITIONS**

17 13. Plaintiffs are all members of the American Society of Composers,
18 Authors, and Publishers (“ASCAP”), a membership association that represents,
19 licenses, and protects the public performance rights of its more than 550,000
20 songwriter, composer, and music publisher members.

21 14. Each ASCAP member grants to ASCAP a non-exclusive right to license
22 the performing rights in that member’s copyrighted musical compositions. On behalf
23 of its members, ASCAP licenses public performances of its members’ musical works,
24 collects license fees associated with those performances, and distributes royalties to
25 its members, less ASCAP’s operating expenses.

26 15. Since November 2013, ASCAP representatives have made more than 20
27 attempts to contact Defendants, or their representatives, agents, or employees, to offer
28

1 an ASCAP license for Ten Nightclub. ASCAP has contacted Defendants by phone,
2 by mail, by e-mail, and in person.

3 16. Defendants have refused all of ASCAP's license offers for Ten
4 Nightclub.

5 17. ASCAP's various communications put Defendants on notice that
6 unlicensed performances of ASCAP's members' musical compositions at Ten
7 Nightclub constitute copyright infringement of ASCAP's members' copyrights in
8 their musical works.

9 18. Notwithstanding the foregoing, Defendants have continued to present
10 public performances of the copyrighted musical compositions of ASCAP members at
11 Ten Nightclub, including the copyrighted works involved in this action, without
12 permission, during the hours that the establishment is open to the public for business
13 and presenting musical entertainment.

14 19. The original musical compositions listed in Column 3 were created and
15 written by the persons named in Column 4.

16 20. Each composition was published on the dates stated in Column 5, and
17 since the date of publication have been printed and published in conformity with Title
18 17 of the United States Code.

19 21. Plaintiffs named in each cause of action, including their predecessors in
20 interest, if any, complied in all respects with Title 17 of the United States Code,
21 secured the exclusive rights and privileges in and to the copyright of each
22 composition listed in Column 3, and received from the Register of Copyrights a
23 Certificate of Registration, identified as set forth in Column 6.

24 22. Defendants on the dates specified in Column 7, and upon information
25 and belief, at other times prior and subsequent thereto, infringed the copyright in each
26 composition named in Column 3 by giving public performances of the compositions
27 at Ten Nightclub, for the entertainment and amusement of the patrons attending said
28 premises, and Defendants threaten to continue such infringing performances.

1 23. The public performances at Ten Nightclub of the Plaintiffs' copyrighted
2 musical compositions on the dates specified in Column 7 were unauthorized: neither
3 Defendants, nor any of the Defendants' agents, servants or employees, nor any
4 performer was licensed by, or otherwise received permission from any Plaintiff, or
5 any agent, servant, or employee of any Plaintiff, to give such performances.

6 24. In undertaking the conduct complained of in this action, Defendants
7 knowingly and intentionally violated Plaintiffs' rights.

8 25. The many unauthorized performances at Ten Nightclub include the
9 performances of the three (3) copyrighted musical compositions upon which this
10 action is based.

11 26. At the times of the acts of infringement complained of, the Plaintiff
12 named in each cause of action was an owner of the copyright in the composition
13 therein named.

14 27. The said wrongful acts of Defendants have caused and are causing great
15 injury to Plaintiffs, which damage cannot be accurately computed, and unless this
16 Court restrains the Defendants from the further commission of said acts, said
17 Plaintiffs will suffer irreparable injury, for all of which said Plaintiffs are without any
18 adequate remedy at law.

19 WHEREFORE, Plaintiffs pray:

20 I. That Defendants and all persons acting under the direction, control,
21 permission or authority of Defendants be enjoined and restrained permanently from
22 publicly performing the aforementioned compositions – or any of them – and from
23 causing or permitting the said compositions to be publicly performed at Ten
24 Nightclub, or at any place owned, controlled, managed, or operated by Defendants,
25 and from aiding or abetting the public performance of such compositions in any such
26 place or otherwise.

27 II. That Defendants be decreed to pay such statutory damages as to the
28 Court shall appear just, as specified in 17 U.S.C. § 504(c)(1), namely, not more than

1 Thirty Thousand Dollars (\$30,000) nor less than Seven Hundred And Fifty Dollars
2 (\$750) in each cause of action herein.


3 III. That Defendants be decreed to pay the costs of this action and that a
4 reasonable attorney's fee be allowed as part of the costs.

5 IV. For such other and further relief as may be just and equitable.
6

7 Dated: January 20, 2016

ARNOLD & PORTER LLP

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9 By:


SHARON D. MAYO (SBN 150469)
AMIE L. MEDLEY (SBN 266586)

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11 *Attorneys for Plaintiffs*
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Schedule A**Columns**

1	2	3	4	5	6	7
Cause of Action	Plaintiff	Musical Composition	Writers	Date of Publication	Certificate of Registration Number	Date of Known Infringement
1.	UNIVERSAL POLYGRAM INTERNATIONAL PUBLISHING	SWEET NOTHING	Florence Leontine Mary Welch Adam Richard Wiles (p/k/a Calvin Harris) Thomas Edward Percy Hull (p/k/a Kid Harpoon)	October 12, 2012	PA 1-825-020	May 29, 2015
2.	EMI APRIL MUSIC INC.	WE FOUND LOVE	Calvin Harris	September 22, 2011	PA 1-789-462	May 29, 2015
3.	STARRLITE UNIVERSAL PUBLISHING SUBTRACTIVE PILLOWFACE PUBLISHING	CONTROL FREAK	Justin Robert Bates Steven Hiroyuki Aoki (Steve Aoki) Charles Smith Kristen Kay Boutier	January 10, 2012	PA 1-804-666	November 7, 2015